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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/520,662	08/28/1995	LIGIA DOMINGUEZ DE WALTER	HOE-94/F-249	1941
7590	10/06/2003			EXAMINER ACQUAH, SAMUEL A.
Arteva North America S.A.R.L. d/b/a KoSa 4501 Charlotte Park Drive Charlotte, NC 28217-1979			ART UNIT 1711	PAPER NUMBER

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/520,662	DOMINGUEZ DE WALTER ET AL.
	Examiner	Art Unit
	SAMUEL A. ACQUAH	1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-7, 10-15, 19-26 and 29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-7, 10-15, 19-26, and 29 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \*    c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.	6) <input type="checkbox"/> Other: ____.

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### DETAILED ACTION

1. Applicant is hereby informed that the final action of the previous communications is rescinded and prosecution is re-opened for consideration of the following explanation of the grounds for rejection.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-7, 10-15, 19-26, and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Horlbeck et al.

The cited prior art is of record in the previous Office Actions.

The disclosures of Horlbeck et al are as discussed in the previous action. It is herein further pointed out that patentees disclose esterification of TPA with EG in the presence of 35-290 ppm of Mn, an esterification catalyst, and 6-95 ppm of cobalt. It is herein pointed out that the claim as structured is silent as to an esterification catalyst, but requires that a complexing agent is added to the esterification batch in an amount "which is 100% of the amount equivalent to...up to 99% of the amount equivalent to cobalt to be employed, and wherein up to 80 ppm of cobalt in the form of a cobalt compound is added to the batch". Thus, since cobalt is an optional compound, if the prior art esterification process did not contain any complexing agent, the requirement of claim 1 would have been satisfied because the amount of the phosphorous complexing agent is tied to the amount of cobalt present. However, the prior art process does disclose the presence of cobalt in the amount of 6-95 ppm, and 45-140 ppm of phosphorous, the amount of which is in the equivalent range required by claim 1 as

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recited above. In the prior art process, the second stage, the polycondensation stage, is conducted in the presence of 115 to 230 ppm of Ge catalyst, and 2 to <20 ppm of Ti. Also, this prior art discloses the reaction of a dialkyl ester of TPA with EG therefore the prior art does disclose a transesterification process, and which is conducted in the presence of a transesterification metal catalyst in the amount of 35-290 ppm of Mn. Since the phosphorous complexing compound is present in the amount of 45-140 ppm, the phosphorous is present in the amount equivalent to 100% of the amount of transesterification catalyst. The process is conducted in the absence of antimony. Thus, all the limitations of claim 1 are met, and hence, claim 1 is anticipated by the disclosures of this prior art.

Claim 2 requires that in the esterification and transesterification stages, the amount of phosphorous is 100 % of amount equivalent to the transesterification catalyst employed and 90 to 99 % of the amount equivalent to cobalt. However, as indicated above, claim 1 is silent about any catalyst in the esterification stage, and the prior art disclosures about the amount of phosphorous in the transesterification process clearly satisfies the requirement of claim 2. See the abstract of the prior art.

Claim 3 is anticipated because the prior art discloses that the second stage, the polycondensation stage, is conducted in the presence of 2 to less than 20 ppm of titanium. Claim 3 requires 1 to 10 ppm of Ti, and see Tables 1 and 2 for the Reduced Specific Viscosity values.

Claim 4 requires the addition of 20-40 ppm of cobalt. Patentees disclose the addition of 6-95 ppm of cobalt, thus claim 4 is anticipated.

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Claims 5-7, 10-15, 19-26, and 29 which claim limited embodiments of the independent claims are also anticipated for the reasons as explained supra. See columns 1, and 3-6 of the cited prior art.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMUEL A. ACQUAH whose telephone number is 703-308-2436. The examiner can normally be reached on M-TH, FRIDAYS OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES SEIDLECK can be reached on 703-308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0661.

S.A.A.

  
SAMUEL A. ACQUAH  
PRIMARY EXAMINER  
GROUP 1700